

# VARNUM, RIDDERING, SCHMIDT & HOWLETT

ATTORNEYS AT LAW

BRIDGEWATER PLACE  
POST OFFICE BOX 352 · GRAND RAPIDS, MICHIGAN 49501-0352  
TELEPHONE 616/336-6000 · FAX 616/336-7000

RECEIVED 35

(APR 19 1994)

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

JAMES N. DeBOER, JR.  
WILLIAM K. VAN'T HOF  
HILARY F. SNELL  
PETER ARMSTRONG  
ROBERT J. ELEVELD  
KENT J. VANA  
CARL E. VER BEEK  
JON F. DeWITT  
JOHN C. CARLYLE  
DONALD L. JOHNSON  
DANIEL C. MOLHOEK  
GARY P. SKINNER  
THOMAS T. HUFF  
TIMOTHY J. CURTIN  
H. EDWARD PAUL  
JOHN E. McGARRY  
DIRK HOFFIUS  
J. TERRY MORAN  
BENHAM R. WRIGLEY, JR.

THOMAS J. MULDER  
THOMAS J. BARNES  
ROBERT D. KULLGREN  
RICHARD A. KAY  
LARRY J. TITLEY  
BRUCE A. BARNHART  
FREDRIC A. SYTSMA  
JACK D. SAGE  
JEFFREY L. SCHAD  
THOMAS G. DEMLING  
JOHN W. PESTLE  
ROBERT P. COOPER  
FRANK G. DUNTEN  
NYAL D. DEEMS  
RICHARD A. HOOKER  
RANDALL W. KRAKER  
PETER A. SMIT  
MARK C. HANISCH  
MARILYN A. LANKFER

THOMAS L. LOCKHART  
ROBERT L. DIAMOND  
BRUCE G. HUDSON  
BRUCE GOODMAN  
JOSEPH J. VOGAN  
ERIC J. SCHNEIDEWIND  
THOMAS A. HOFFMAN  
TERESA S. DECKER  
JEFFREY R. HUGHES  
RICHARD W. BUTLER, JR.  
LAWRENCE P. BURNS  
MATTHEW D. ZIMMERMAN  
WILLIAM E. ROHN  
JOHN PATRICK WHITE  
CHARLES M. DENTON  
PAUL M. KARA  
JEFFREY D. SMITH  
H. LAWRENCE SMITH  
THOMAS C. CLINTON

MARK L. COLLINS  
JONATHAN W. ANDERSON  
CARL OOSTERHOUSE  
WILLIAM J. LAWRENCE III  
GREGORY M. PALMER  
SUSAN M. WYNGAARDEN  
KAPLIN S. JONES  
STEPHEN P. AFENDOLIS  
ROBERT A. HENDRICKS  
DAVID E. KHOREY  
MICHAEL G. WOOLDRIDGE  
TIMOTHY J. TORNGA  
PERRIN RYNDERS  
MARK S. ALLARD  
TIMOTHY E. EAGLE  
DAVID A. RHEM  
DONALD P. LAWLESS  
MICHAEL S. McELWEE  
GEORGE B. DAVIS

JACQUELINE D. SCOTT  
N. STEVENSON JENNETTE III  
DAVID E. PRESTON  
JEFFREY W. BESWICK  
ELIZABETH JOY ROSSEL  
JOEL E. BAIR  
JOAN SCHLEEF  
SCOTT A. HUIZENGA  
RICHARD J. McKENNA  
MICHAEL F. KELLY  
KATHLEEN P. FOCHTMAN  
JEFFREY J. FRASER  
JAMES R. STADLER  
RICHARD R. SYMONS  
JINYA CHEN\*  
JEFFERY S. CRAMPTON  
RONALD G. DeWAARD  
MAUREEN POTTER  
SCOTT T. RICKMAN

VICKI S. YOUNG  
BRYAN K. ANDERSON  
MARK A. DAVIS  
ANDREW C. FARMER  
ANDREW J. KOK  
PATRICK A. MILES, JR.  
ERIC J. GUERIN  
STEVEN J. MORREN  
KEVIN ABRAHAM RYNBRANDT  
THOMAS J. AUGSPURGER  
RANDY A. BRIDGEMAN  
MICHAEL X. HIDALGO  
THOMAS G. KYROS  
BEVERLY HOLADAY  
RANDALL J. GROENDYK  
PAMELA J. TYLER  
ROBERT C. RUTGERS, JR.  
TERRI L. SHAPIRO  
BRUCE H. VANDERLAAN

MARC DANEMAN  
Counsel  
WILLIAM J. HALLIDAY, JR.  
EUGENE ALKEMA  
TERRANCE R. BACON  
PETER VISSERMAN  
DAVID L. PORTEOUS  
H. RAYMOND ANDREWS  
KAREN SMITH KIENBAUM  
MICHELLE ENGLER  
JAMES R. VIVENTI  
Of Counsel  
JOHN L. WIERENGO, JR.  
F. WILLIAM HUTCHINSON  
R. STUART HOFFIUS  
GORDON B. BOOZER  
\*ALSO ADMITTED IN  
PEOPLE'S REPUBLIC OF CHINA

April 18, 1994

DOCKET FILE COPY ORIGINAL

EX PARTE OR LATE FILED

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

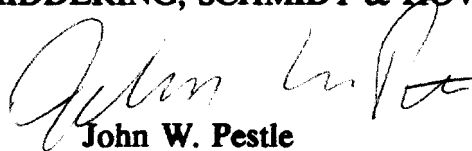
Re: Docket 92-266

Dear Mr. Caton:

Pursuant to the Commission's rules, this letter attaches a written ex parte communication with Mr. Steven Weingarten of the Commission staff on this date. An original and two copies of this letter are attached. If you could return one date-stamped copy, that would be most appreciated.

Very truly yours,

VARNUM, RIDDERING, SCHMIDT & HOWLETT

  
John W. Pestle

JWP/kel  
Enclosures

cc: Mr. Steven Weingarten

No. of Copies rec'd  
List ABCDE

RECEIVED

APR 19 1994

VARNUM, RIDDERING, SCHMIDT & HOWLETT

ATTORNEYS AT LAW

BRIDGEWATER PLACE  
POST OFFICE BOX 352 · GRAND RAPIDS, MICHIGAN 49501-0352  
TELEPHONE 616/336-6000 · FAX 616/336-7000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

JAMES N. DeBOER, JR. WILLIAM K. VAN'T HOF HILARY F. SNELL PETER ARMSTRONG ROBERT J. ELEVELD KENT J. VANA CARL E. VER BEEK JON F. DeWITT JOHN C. CARLYLE DONALD L. JOHNSON DANIEL C. MOLHOEK GARY P. SKINNER THOMAS T. HUFF TIMOTHY J. CURTIN H. EDWARD PAUL JOHN E. McGARRY DIRK HOFFIUS J. TERRY MORAN BENHAM R. WRIGLEY, JR.	THOMAS J. MULDER THOMAS J. BARNES ROBERT D. KULLGREN RICHARD A. KAY LARRY J. TITLEY BRUCE A. BARNHART FREDRIC A. SYTSMAN JACK D. SAGE JEFFREY L. SCHAD THOMAS G. DEMLING JOHN W. PESTLE ROBERT P. COOPER FRANK G. DUNTE NYAL D. DEEMS RICHARD A. HOOKER RANDALL W. KRAKER PETER A. SMIT MARK C. HANISCH MARILYN A. LANKFER	THOMAS L. LOCKHART ROBERT L. DIAMOND BRUCE G. HUDSON BRUCE GOODMAN JOSEPH J. VOGAN ERIC J. SCHNEIDWIND THOMAS A. HOFFMAN TERESA S. DECKER JEFFREY R. HUGHES RICHARD W. BUTLER, JR. LAWRENCE P. BURNS MATTHEW D. ZIMMERMAN WILLIAM E. ROHN JOHN PATRICK WHITE CHARLES M. DENTON PAUL M. KARA JEFFREY D. SMITH H. LAWRENCE SMITH THOMAS C. CLINTON	MARK L. COLLINS JONATHAN W. ANDERSON CARL OOSTERHOUSE WILLIAM J. LAWRENCE III GREGORY M. PALMER SUSAN M. WYNGAARDEN KAPLIN S. JONES STEPHEN P. AFENDOLIS ROBERT A. HENDRICKS DAVID E. KHOREY MICHAEL G. WOOLDRIDGE TIMOTHY J. TORNGA PERRIN RYNDERS MARK S. ALLARD TIMOTHY E. EAGLE DAVID A. RHEM DONALD P. LAWLESS MICHAEL S. McELWEE GEORGE B. DAVIS	JACQUELINE D. SCOTT N. STEVENSON JENNETTE III DAVID E. PRESTON JEFFREY W. BESWICK ELIZABETH JOY FOSSEL JOEL E. BAIR JOAN SCHLEEF SCOTT A. HUIZENGA RICHARD J. McKENNA MICHAEL F. KELLY KATHLEEN P. FOCHTMAN JEFFREY J. FRASER JAMES R. STADLER RICHARD R. SYMONS JINYA CHEN* JEFFERY S. CRAMPTON RONALD G. DeWAARD MAUREEN POTTER SCOTT T. RICKMAN	VICKI S. YOUNG BRYAN K. ANDERSON MARK A. DAVIS ANDREW C. FARMER ANDREW J. KOK PATRICK A. MILES, JR. ERIC J. GUERIN STEVEN J. MORREN KEVIN ABRAHAM RYNBRANDT THOMAS J. AUGSPURGER RANDY A. BRIDGEMAN MICHAEL X. HIDALGO THOMAS G. KYROS BEVERLY HOLADAY RANDALL J. GROENDYK PAMELA J. TYLER ROBERT C. RUTGERS, JR. TERRI L. SHAPIRO BRUCE H. VANDERLAAN	MARC DANEMAN Counsel WILLIAM J. HALLIDAY, JR. EUGENE ALKEMA TERRANCE R. BACON PETER VISSERMAN DAVID L. PORTEOUS H. RAYMOND ANDREWS KAREN SMITH KIENBAUM MICHELLE ENGLER JAMES R. VIVENTI Of Counsel JOHN L. WIERENGO, JR. F. WILLIAM HUTCHINSON R. STUART HOFFIUS GORDON B. BOOZER *ALSO ADMITTED IN PEOPLE'S REPUBLIC OF CHINA
--	--	--	--	--	--	--

April 18, 1994

EX PARTE OR LATE FILED

Mr. Steven Weingarten  
Staff Attorney  
Federal Communications Commission  
Cable Services Division  
2033 M Street, N.W., 9th Floor  
Washington, D.C. 20554

**EX PARTE PRESENTATION**

Re: Docket 92-266 - TCI In-Home Wiring Program

Dear Mr. Weingarten:

I wish to bring to your attention certain information on TCI's \$0.49 in-home wiring program which may be of assistance. I understand Commission staff has received a number of questions on this issue.

**Commission Ruling:** I should start out by noting that the Commission in its August First Order on Reconsideration squarely ruled that in-home wiring maintenance services are a regulated service which must be charged for on actual cost basis, the same as installation and service calls. See footnote 100 to the August 27 Order and the accompanying text.

The Commission's ruling could not be clearer on this point. As discussed below, TCI's attorneys do not contend that the Commission has ruled that this service is unregulated -- even though TCI's letters to municipalities and subscribers incorrectly state that the service is "unregulated".

Trade press reports (which may or may not be accurate) suggest that some parties are not aware of the Commission's ruling at footnote 100. So I wanted to make sure you were aware of it.

**Reliance:** You should be aware that a number of communities have expressly relied on the preceding provisions of the Commission's August Order in taking action on the in-home wiring program and in setting rates. See for example the Grand Rapids area communities discussed

VARNUM, RIDDERING, SCHMIDT & HOWLETT

ATTORNEYS AT LAW

Mr. Steven Weingarten  
April 18, 1994  
Page 2

below. If there is any thought that this service now be changed to be deemed to be unregulated, I encourage you to oppose it. For the Commission to change position would not only be harmful to subscribers, it would be harmful to rate regulation generally due to the municipalities who have taken action to require cable companies to file and justify their in-home wiring rates based upon the Commission's ruling that these services are regulated.

To put this in context, although communities are pleased with the additional round of rate reductions resulting from the Commission's recent orders, there is some discouragement with the additional work this will entail for them. A reversal of the Commission's position on a point that has been at the center of several disputed rate proceedings with cable companies will hurt the Commission's credibility and tend to discourage municipalities from continuing to regulate rates.

**Documents:** The documents I wish to bring to your attention come from the actions by communities in the Grand Rapids, Michigan area to set TCI's rates. These franchising authorities prohibited TCI from separately charging for in-home wiring maintenance services until it files with them appropriate requests for approval of its rates and charges for such services. And they found that TCI has not reduced its rates for programming services (basic or CPS) when it unbundled and broke out this proposed \$0.49 service. Given that TCI has over 10 million subscribers nationwide, this suggests that TCI is overcharging its customers by as much as \$60 million per year (\$0.49 x 12 x 10 million) by failing to reduce its rates due to this decrease in service.

**Background:** Various franchising authorities in the Grand Rapids, Michigan area have set rates for TCI. They did so after submitting data requests to TCI (which TCI refused to respond to); having a knowledgeable consultant (R.W. Beck and Associates) review TCI's rates and provide a report noting deficiencies in TCI's Form 393 and recommending corrected rates; providing this report to TCI; receiving a detailed written response from TCI (in the nature of the paper hearing expressly allowed by the Commission's rules); and after TCI then submitted additional papers and appeared and argued before city commissions and township boards.

One of the items in dispute in this process was TCI's \$0.49 charge. Attached are excerpts from the documents submitted to the franchising authorities which may be of interest. If you would like the complete documents, please let me know.

**Consultant's Report:** First, attached are the pertinent pages dealing with in-home wiring charges from the report of R.W. Beck and Associates together with a typical letter received by one of the municipalities from TCI advising of the institution about the in-home wiring program. Please note the following: In the letter, TCI admits that until now this service has been included in its basic and CPS rates. Second, TCI refused to submit the costs for this service to the communities for approval in advance (and erroneously contended that the service is unregulated).

The Beck report recommended to the communities that TCI not be permitted to impose any rate or charge for in-home wiring services. This recommendation applied to the \$0.49 charge which had never been submitted to the communities for approval. It also applied to the hourly service charge (HSC), for the reasons set forth in the report. Thus, the report recommends that

VARNUM, RIDDERING, SCHMIDT & HOWLETT

ATTORNEYS AT LAW

Mr. Steven Weingarten  
April 18, 1994  
Page 3

the communities not allow TCI to charge separately for in-home wiring services on a \$0.49 or hourly rate basis until TCI makes the appropriate filings with the franchising authorities.

In this regard, you should be aware that TCI's purported Form 393 contained no line item for maintaining in-home wiring. The Form 393 is attached. The Form is grossly deficient, and as noted above TCI refused to supply the required attachments or additional meaningful data in response to data requests from the municipalities.

TCI Response: Second, I have attached the cover page and excerpt from TCI's formal response to the Beck report (by the law firm of Cole, Raywid & Braverman for TCI) on the inside wiring issue. Please note the following points: TCI admits that the FCC "has not directly addressed this particular situation" of inside wiring charges. As noted above, TCI's admission is incorrect because the Commission has squarely ruled on this issue in its August 27 Order.

TCI's response states that "it is free to charge what the market will bear for its optional inside wiring maintenance program". This shows an intent to evade the Act, such as that set forth in the TCI internal memo published in the Washington Post last year.

As you know, a major thrust of the 1992 Cable Act and this Commission's rules is to prevent cable operators from continuing to charge "what the market will bear", otherwise known as monopoly pricing. In-home wiring service is a monopoly service. For example, there aren't other vendors out there available to provide wiring maintenance services in competition with TCI - customers are not able to look in the yellow pages under "inside home wiring maintenance" and find entities willing to compete with TCI.

And as a practical matter, customers are "over a barrel" on such services because all they know is that cable service is out, they call TCI, the service technician shows up and says that the problem is in the in-home wiring. At that point as a practical matter, the customer has little option but have the technician fix it on the spot and pay TCI for it. The situation is thus rife with the potential for overcharging unless charges for this service are regulated on an actual cost basis.

Not Removed From Rates: Third, TCI's contention that it has deducted these costs from its rates is incorrect and was rejected by the municipalities. Note in this regard TCI's admission that until February or March, 1994 it performed these services for free -- as part of basic and CPS rates.

TCI submitted papers attempting to show that the in-home wiring costs had been removed from its rates and charges. See the excerpt from the Cole, Raywid letter and attachment. The communities found TCI's contention in this regard unpersuasive and found that it had not carried its burden of proof. See, for example, Resolution and Rate Order of the City of Walker (a community served by TCI's Grand Rapids, Michigan area system) attached, particularly the last "Whereas" paragraph on page 2 and the top "Whereas" paragraph on page 3; findings (4) and (5) on page 5; and, the carryover "Be It Further Resolved" paragraph from page 4 to page 5.

VARNUM, RIDDERING, SCHMIDT & HOWLETT

ATTORNEYS AT LAW

Mr. Steven Weingarten

April 18, 1994

Page 4

In this regard, you should note that TCI provided absolutely no support or justification for the 30% allocation figure set forth in the attachment to the Cole, Raywid letter, although knowing that this was a fundamental point. Instead, the number appears to be arbitrary and picked out of the air. Note that there is no showing as to when this alleged computation was made, by whom or the like and that as set forth in the resolution and rate order TCI refused to respond to data requests that would have shown how the figures in its Form 393 in fact were computed.

Again, as the resolution states, TCI provided in home wiring maintenance service free (as a part of basic/CPS) at least through February or March, 1993. Cable rate regulation became effective in November and the Form 393's were filed on or about December 1, 1993. Rates being charged have been unchanged since September, 1993. Because a decrease in service is an increase in rates (implicit price increase) TCI is required to reduce its rates if it reduces the services being provided. It has not done so.

**National Implications:** The preceding situation appears to occur generally in all the TCI communities we represent, and apparently nationally. For example, all the TCI communities we represent who are regulating rates have received letters identical to those attached to the Beck report about the in-home wiring service. And from press reports this is occurring nationally.

Thus it appears that nationally TCI is now effectively increasing rates by as much as \$60 million/year by charging for what was previously included in basic/CPS service, but without an offsetting reduction in rates.

**Need for FCC Action:** There is a need for the FCC to take action on this issue. The sums involved are large. The symbolism and "message" to TCI and the rest of the cable industry by resolute action by the Commission would be substantial--especially if it were a finding of an evasion coupled with forfeitures (or other relief) commensurate with the overcharges that are occurring.

In this regard, a ruling by the Commission on this program will hopefully cause TCI to come into compliance on this point nationwide. This is a far more effective use of the Commission's scarce resources than to have this Commission and franchising authorities address this issue over and over again in thousands of basic and CPS proceedings and appeals to this Commission.

Finally, there is the reality that many franchising authorities are moving slowly to regulate rates. Partly this is because TCI is strongly encouraging communities only to issue an accounting order and not to set rates. You should be aware that TCI has encouraged this in many letters to mayors, councils and commissions in Michigan, as well as in letters and personal appearances by Cole, Raywid & Braverman.

**Conclusion:** We wanted to pass on this information so that you would be aware of it. As always, we appreciate your efforts on cable rate regulation.

**VARNUM, RIDDERING, SCHMIDT & HOWLETT**

**ATTORNEYS AT LAW**

**Mr. Steven Weingarten**

**April 18, 1994**

**Page 5**

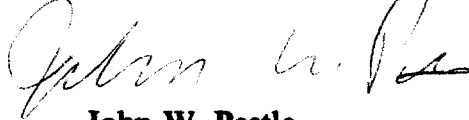
If you or Commission staff have questions or if we can be of assistance, please let me know.

Two copies of this letter and its attachments are being filed concurrently with the Secretary of the Commission.

With best wishes,

Very truly yours,

**VARNUM, RIDDERING, SCHMIDT & HOWLETT**

A handwritten signature in dark ink, appearing to read "John W. Pestle", is written over the printed name.

**John W. Pestle**

**JWP/kel**  
**Enclosures**

**REPORT OF R. W. BECK**  
**TO THE**  
**GRAND RAPIDS AREA FRANCHISING AUTHORITIES**  
**REGARDING**  
**THE FORM 393 CABLE RATE FILINGS**  
**OF**  
**TCI CABLEVISION OF WESTERN MICHIGAN**

**PREPARED BY**  
**GARTH T. ASHPAUGH**

**FEBRUARY 24, 1994**

## REPORT TO FRANCHISING AUTHORITIES

---

### Inside Wiring Maintenance Program

In February, after it had filed its purported Form 393 justifying its rates, TCI submitted to the franchising authorities a notice stating that was in the process of notifying its customers that it planned to begin charging for maintaining a customer's "inside wiring." Under the new policy, TCI apparently plans to charge for any service call that involves loose fittings or bad connections to a TV set or VCR, or any other maintenance of home wiring. TCI claims that it had been "recovering that cost [the cost of inside wiring maintenance] through our monthly service charges." It now apparently plans to charge customers for inside wiring repairs at its hourly service charge, except those customers who agree to pay \$0.49 per month to enroll in TCI's inside wiring maintenance program (or who perform the repairs themselves). See a sample TCI letter attached as Exhibit E. No inside wiring charge was proposed or justified in TCI's Form 393.

If a charge for repairs is to be unbundled from the basic service rate and levied upon subscribers, as TCI apparently believes is appropriate, then all costs associated for repairs have to be reflected in Part III of Form 393, and removed from the basic service rate. TCI's announcement indicates that costs have not been so removed. Instead, as noted above, it admits its current "monthly service charge" includes costs associated with repairing internal wiring. TCI has failed to provide the information required to precisely calculate the costs associated with such repairs and to remove them from basic rates. But, because rates for equipment should be based upon costs, it is not unreasonable to assume that the costs of repair in any given year equals at least  $\$.49 \times \text{the number of subscribers} \times 12$ . The total annual charge based on this calculation has been included in our determination of the Form 393 by including the amount on Line 33, Step G, Part III. This decreases the per channel rate shown on Line 3 of the front page of the Form 393 (basic service) and Line 3, Page 3 of Part I (cable programming service).

It might at first appear that identifying this item as a separate charge adjustment would require an adjustment to the hourly service charge as well. That is not the case. The hourly service charge is the result of monthly equipment and installation costs divided by the hours



## REPORT TO FRANCHISING AUTHORITIES

---

devoted to those tasks. Even if costs go up, if hours also go up, the hourly service charge may stay the same or go down. Nothing TCI has provided suggests that unbundling repair charges from basic service should raise the hourly service charge. Actually, TCI has told subscribers that the proper repair rate would be based on the hourly service charge it proposes in its filing. It is thus unnecessary to make any change in the hourly service charge for now.

The proposed \$.49 charge (or any other charge) for the repair services described by TCI is a regulated rate. But we must caution that we are not recommending that the franchise authorities approve the \$.49 charge or any other charge for repair services. The adjustment described above merely unbundles repair costs, which TCI now believes is appropriate, from the basic service rate as far as is now possible. Before a rate could be finally approved, it would be necessary to conduct a far more detailed examination of costs and hours associated with repair services, and TCI would need to submit a request for approval of the rate. If TCI did so, the HSC may end up being reduced. For that reason we cannot say that the current HSC for installation and maintenance should apply to other activities for which TCI has never separately charged before until TCI makes a proper filing requesting approval of the proposed rate. This it has chosen not to do, and having failed to do so, it may not have the right to institute any additional charge for at least another year. This is because, under the FCC's rules, a cable operator is only entitled to file to adjust equipment rates (and associated customer charges) once annually, except, possibly, in cases where an operator is introducing a new piece of equipment. Second Report and Order, ¶¶64,67.

# COLE, RAYWID & BRAVERMAN

ATTORNEYS AT LAW

SECOND FLOOR

1919 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006-3458

(202) 659-9750

ALAN RAYWID  
(1930-1991)

CABLE ADDRESS  
"CRAB"

TELECOPIER  
(202) 452-0067

JOHN P. COLE, JR.  
BURT A. BRAVERMAN  
ROBERT L. JAMES  
JOSEPH R. REIFER  
FRANCES J. CHETWYND  
JOHN D. SEIVER  
WESLEY R. HEPPLER  
PAUL GLUST  
DAVID M. SILVERMAN  
JAMES F. IRELAND, III  
STEVEN J. HORVITZ  
CHRISTOPHER W. SAVAGE  
ROBERT G. SCOTT, JR.  
SUSAN WHELAN WESTFALL  
GARY I. RESNICK  
JANET R. THOMPSON\*  
THERESA A. ZETERBERG  
STEPHEN L. KABLER  
MATTHEW P. ZINN  
JOHN DAVIDSON THOMAS  
MARIA T. BROWNE  
BENJAMIN E. GOLANT  
THOMAS SCOTT THOMPSON

March 10, 1994

\* ADMITTED IN PENNSYLVANIA ONLY

## GRAND RAPIDS AREA FRANCHISING AUTHORITY

Re: Rate Regulation of TCI Cablevision of West Michigan, Inc.

Dear Sir/Madam:

TCI Cablevision of West Michigan, Inc. ("TCI"), by its attorneys, hereby responds to the "Report of R.W. Beck to the Grand Rapids Area Franchising Authorities Regarding the Form 393 Cable Rate Filings of TCI Cablevision of Western Michigan," dated February 24, 1994 (hereinafter referred to as the "Beck Report"). We request that copies be distributed to appropriate officials and staff.

You should have received on March 7 a letter from us stating that we would be unable to file on that date, but would submit a full response to the Beck Report later in the week. In submitting this response, we must restate our strong objection to the current rate process. As explained below, the preparation of the Beck Report was unnecessarily rushed, as is the absurdly clustered schedule of public meetings to consider the Report and Recommendation. The entire process is prejudicial to TCI, as it effectively frustrates meaningful participation by TCI. In fact, it is not even clear the extent to which TCI will be allowed or expected to present evidence at the public meetings. We are, therefore, urging each franchising authority in the area to immediately reconsider and reject both reliance on the Beck Report and the announced meeting schedule. Basic fairness and due process require nothing less.

The Beck Report initially contends that TCI failed to file a proper Form 393. This contention is based predominately on the fact that TCI used a computer generated form

March 10, 1994

Page 12

### 8. Charge for Maintenance of Inside Wiring.

To properly understand the "inside wiring maintenance" issue, some background is helpful. The 1992 Cable Act and the FCC's implementing regulations required cable operators to "unbundle" charges for "equipment" and "service," and price the former on the basis of "actual cost." In "unbundling" equipment charges, cable operators were required to calculate the costs of acquiring, installing, maintaining, and repairing each type of cable equipment. The total "equipment basket" was then to be deducted from total subscriber revenues to derive the appropriate level for monthly "service" fees.

When TCI initially calculated its "equipment basket," it allocated certain costs to the maintenance of "inside wiring." These costs were treated much like the costs attributed to "converters." They were totalled and deducted from the Company's permissible service rates. That figure was, in fact, included in TCI's "equipment basket" and already subtracted from monthly service rates. See Attachment D.

The Beck Report argues that TCI's existing service rate should be reduced by the 49 cents TCI intends to charge as an "inside wiring maintenance" fee. It relies extensively on a promotional piece in which TCI explains to its subscribers that the Company had been recovering the cost of that maintenance through its monthly service fee. Unfortunately, the Beck Report seizes on some imprecise language to reach an erroneous conclusion. The TCI announcement meant to convey that wiring maintenance had historically been recovered through monthly service fees. As explained above, TCI "unbundled" the costs of its "inside wiring maintenance" when it restructured its rates last fall. Because TCI did not immediately begin charging to recover that cost, however, the ordinary subscriber presumably would not realize that the new "benchmark" service rate was no longer covering TCI's "inside wiring maintenance" costs. TCI's public announcement was intended to explain to subscribers their new responsibility and options regarding inside wiring maintenance; it was never intended for purposes of formal rate analysis.

For a variety of reasons, TCI decided against collecting a separate "inside wiring" charge when it first revised its rates pursuant to benchmark regulation. In introducing the charge, it decided to offer subscribers four choices. They could: (1) pay the regulated hourly service charge to have TCI resolve a problem; (2) fix any problem themselves; (3) make independent arrangements to resolve a problem; or (4) opt into TCI's "inside wiring maintenance" program. In exchange for a fixed 49 cent per month payment, TCI has committed to its program subscribers that it would resolve "inside wiring" problems at no additional charge.

March 10, 1994

Page 13

The Beck Report errs in assuming the optional "inside wiring maintenance" program is a regulated rate. Because subscribers have the choice of having such problems resolved through the regulated hourly service charge, we believe that TCI's "inside wiring maintenance" program is unregulated.

While the FCC has not directly addressed this particular situation, it has ruled in the case of equipment sales, that the price a cable operator charges for such sales is unregulated as long as the equipment is also leased at regulated rates. In essence, the regulated lease price establishes "competition" to the operator's sale price and undercuts any economic justification for regulating the latter. The principle established in that context is equally applicable here. As long as TCI provides "inside wiring maintenance" on a regulated "as needed" basis, it is free to charge what the market will bear for its optional "inside wiring maintenance" program. Accordingly, the adjustment recommended in the Beck Report regarding TCI's "inside wiring maintenance" fee is entirely inappropriate. The full costs of that maintenance was already deducted from the monthly service fees now under review.<sup>7</sup>

#### 9. Uniformity of Non-Standard, Discounted Rates.

The Beck Report contends that TCI's failure to submit and justify its existing bulk rates requires the franchising authority to set a uniform rate for all bulk accounts at a level equal to the lowest price discovered, i.e., \$3.10 for basic service.<sup>8</sup> Not only does the contention grossly exaggerate the franchising authority's discretion, but it entirely misconstrues the governing law on bulk accounts.

The FCC has clearly stated that "cable operators' existing contracts with MDUs are grandfathered to the extent they are in compliance with rate regulation. . . ." Executive Summary of Third Order on Reconsideration in MM Docket Nos. 92-266 and 92-262 (released February 22, 1994) at ¶3. This means that as long as the per unit rate charged to multiple dwelling units ("MDUs") is equal to or less than the operator's overall permitted rate,

---

<sup>7</sup> The Beck Report also errs in suggesting that TCI is now estopped from assessing any home wiring charge. Despite TCI's decision to temporarily forbear from collecting its home wiring costs, the regulated service rate may now be assessed through the standard hourly service charge. The maintenance program, of course, lies outside of regulatory control.

<sup>8</sup> The Beck Report states that the lowest rate for an MDU discovered by the franchising authorities was \$6.71 per dwelling unit for both basic and cable programming service. Based on its assertion that this rate is 46.15% of the appropriate rate for basic and cable programming service, the Report concludes that TCI Cablevision must charge MDUs \$3.10 for basic service.

## Technician Service Call Summary

	<u>Annual number of service calls</u>
Drop related	11,832
Percentage of time maintaining in-home wiring	<u>30%</u>
In-home wiring	3,490
Addressable converter	2,572
Converter	<u>2,052</u>
Service calls related to maintenance of customer equipment	<u>8,114 (A)</u>
Total service calls	33,649
Less:	
No field action	(3,781)
Customer cancelled	<u>(321)</u>
Total applicable service calls	<u>29,547 (B)</u>
Time spent maintaining customer equipment	<u>27% (A)/(B)</u>

# TECHNICAL SUMMARY REPORT - 1992

Attachment D 2/2

ENTER DATE  
ENTER HEADEND LOCATION

11/01/92 12/11/92  
ALL HUBS

## SYSTEM STATISTICS:

SERIAL MILES	1590.28	UNDERGROUND MILES	803.24	TOTAL	2393.52
OMES PASSED (MARKETABLE)					185572
OMES PASSED (ACTUAL)					185572
ASIC SUBS					116683
AY UNITS					81870
ECHNICAL COUNT					103.503

## SYSTEM MAINTENANCE:

	For MONTH	
MILES SWEEPED THIS MONTH	156.7	3097.63
MILES MONITORED THIS MONTH FOR LEAKS	1204.9	15172.4
NUMBER OF LEAKS CORRECTED THIS MONTH	134	1908
LEAKS IN BACK LOG		32
POLE TRANSFERS COMPLETED THIS MONTH	4	573
POLE TRANSFERS INCOMPLETE-IN BACKLOG		227
UNITS AUDITED THIS MONTH	9431	34929
LEGALS FOUND THIS MONTH	16	155

## OUTAGE ANALYSIS:

POWER OUTAGES/MONTH	2	EQUIPMENT FAILURES/MONTH	27	TOTAL	29
TOTAL OUTAGE TIME/MONTH	51 HR 18 MIN				
POWER OUTAGES/YTD	355	EQUIPMENT FAILURES/YTD	1663	TOTAL	2018

## SERVICE CALL SUMMARY:

	WK 1	WK 2	WK 3	WK 4	WK 5	TOTAL	
DROP RELATED	36	133	176	165	168	678	11632
PLANT RELATED/C&P	1	5	10	8	16	40	715
HEADEND	0	0	3	3	1	7	59
ADDRESSABLE CONVERTER	4	34	40	63	35	176	2572
CONVERTER	4	25	51	37	31	148	2052
TAC RELATED	0	7	4	10	8	29	265
CUST. EQUIP	11	32	74	68	49	234	4708
NO FAULT FOUND	5	18	23	32	31	109	2003
NOT AT HOME	3	9	8	4	10	34	1365
FINE TUNE	4	12	27	19	14	76	754
CUSTOMER EDUCATION	17	32	71	72	50	242	2979
VCR	3	4	12	7	1	27	443
NO FIELD ACTION	23	50	114	75	83	345	3781
CUST CANCELLED	2	3	1	2	2	10	321
TOTAL	113	364	614	565	499	2155	33649
							SERVICE %
							1.48%

TOTAL BACKLOG 0  
TOTAL CALLS 2155  
TOTAL NO FIELD ACTION 345  
TOTAL CALL COUNT 1810

## RESOLUTION/RATE ORDER

At a regular meeting of the City Commission of the City of Walker, Michigan, held in the Walker Public Safety Building, 4343 Remembrance Road, N.W., on Tuesday, the 22nd day of March, 1994 at 8 p.m., there were:

PRESENT: Mayor, D. Knottnerus, Commissioners, J. VanSoestberg,  
S. Versluis, G. Hilton, R. Marz, J. Rogers, A. Parent

ABSENT: None

The following resolution was offered by Commissioner R. Marz, and seconded by Commissioner A. Parent.

WHEREAS, the City of Walker ("City") has been certified by the Federal Communications Commission ("FCC") to regulate the rates of UACC Midwest, Inc., d/b/a TCI Cablevision of West Michigan, Inc. ("TCI") for "Basic Cable Service" and "Associated Equipment" as such terms are defined in the City's cable television rate regulation ordinance ("Ordinance"), pursuant to the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act") and rules promulgated thereunder by the FCC ("FCC Rules"), and

WHEREAS, TCI has the burden of proving that its schedule of rates for Basic Cable Service and Associated Equipment comply with the 1992 Cable Act and the FCC Rules, and

WHEREAS, on December 4, 1993, the City received TCI's purported Form 393 filing for Basic Cable Service and Associated Equipment which was not filed on the FCC's Form 393 and did not otherwise comply with Form 393 requirements and instructions including, without limitation, the attachment of an explanation or study for certain items, and

WHEREAS, the purported Form 393 filing of TCI proposed different rates for Basic Cable Service and Associated Equipment than the rates implemented by TCI on September 1, 1993 despite the fact that TCI said that its September 1, 1993 rates were "required" by and complied with the 1992 Cable Act and FCC Rules, and

WHEREAS, on December 28, 1993, the City Commission adopted its Resolution/Tolling Order allowing an additional 90 days for review of TCI's rates pursuant to FCC Rules, and

WHEREAS, on or about January 14, 1994, the City submitted a data request to TCI pursuant to its Ordinance and FCC Rules which required TCI to provide by January 28, among other things, the supporting data and work papers for TCI's purported Form 393 including the missing explanations, and

WHEREAS, TCI did not respond to the data request and was notified by a letter dated February 1, 1994 that its failure to respond constituted a violation of the Ordinance which allows the City to conclude that TCI had failed to carry its burden of proof and/or lacked the data to support its purported Form 393 and the rates proposed therein, and

WHEREAS, on January 25, 1994, the City Commission conducted a public hearing on rates for Basic Cable Service and Associated Equipment, and

WHEREAS, pursuant to the Ordinance, the City Manager caused a report to be prepared by a respected national utility consulting firm, R.W. Beck & Associates ("R.W. Beck") which reviewed the purported Form 393 filing of TCI and rates proposed therein, and

WHEREAS, due to TCI's failure to respond to the data request, in February the report had to be prepared without any of the information requested from TCI as well as without a proper Form 393 filed by TCI, which report was completed on February 24, and

WHEREAS, the City Manager reviewed the R.W. Beck report and transmitted same to the City Commission, recommending that the City approve the rates recommended

therein for the reasons stated in the report, and also mailed the report of R.W. Beck to TCI on February 25 in accordance with the Ordinance, and

WHEREAS, only after receiving this report and recommendation did TCI submit an incomplete response to the City's data request which the City's attorneys received on March 1, which response was dated February 15 but was not postmarked until February 28, and

WHEREAS, TCI's incomplete data response was not specific to the Grand Rapids area cable system serving City, used data and estimates that are unsupported and unexplained, still did not provide many of the explanations required to be attached to the Form 393 and which were required to be provided under the data request, and

WHEREAS, in its incomplete response TCI supplied only the information which TCI said it believes the City should need to review the purported Form 393, and not the data requested by City, such that TCI continues to be in violation of the City's Ordinance for failure to comply with most of the data request, and

WHEREAS, on March 10, 1994, approximately two weeks after the R.W. Beck report was completed, TCI sent a response to the R.W. Beck report, including revised, purported Form 393's, which City forwarded to the City Commission, and

WHEREAS, the March 10 response concedes significant errors in TCI's original purported Form 393 filing; contains numerous significant differences and inconsistencies with the original purported Form 393 and with the incomplete data response mailed 10 days before; contains changes in assumptions, data and figures from those previously supplied, which changes are unsupported or unexplained by TCI; and requests approval of a new \$2.00 rate, Upgrade/Downgrade (Addressable), not before submitted to City, and

WHEREAS, it is apparent that much of the "new" information contained in the March 10 response could have been provided by TCI in January in response to the City's data request, and

WHEREAS, TCI should not now be allowed to utilize and rely on data and information which it could have, and should have, provided to the City in January in response to the City's data request, and

WHEREAS, TCI in its December purported Form 393 filing and February 28 partial data response utilized a Grand Rapids area system-wide approach in determining the number of satellite channels and resulting rates, as did TCI in setting its September 1, 1993 rates; and TCI states this was a deliberate choice although it knew there were slight variations in the number of satellite channels in different communities; and this approach as implemented by TCI maximized the number of satellite channels and rates claimed on its purported Form 393, and

WHEREAS, the R.W. Beck report also utilized a system-wide approach, but determined the number of satellite channels for the system based on the number of satellite channels received by a majority of subscribers on the system, which leads to fewer satellite channels and lower rates, and

WHEREAS, since TCI elected to utilize the system-wide approach to determine the number of satellite channels on its Form 393, TCI should not be allowed to now change approaches to use different numbers of satellite channels in different communities, as TCI's March 10 response seeks to do, and

WHEREAS, TCI told City and subscribers in writing in February that it had been recovering the cost of maintaining home wiring through its monthly service charges for programming; TCI in its March 10 response and attachments claims that costs related to maintaining home wiring were deducted from monthly service charges for programming, but did not provide any documentation or support for the allocation figure for maintenance of in-home wiring used therein, even though its December Form 393 and incomplete data response did not include such information; TCI has failed to respond to City's data request which would have shown how TCI treats the cost of maintaining in-home wiring, such as



whether TCI computed its hourly service charge properly, taking into account time and costs associated with maintaining in-home wiring, the items included in and excluded from such hourly service charge, and what items TCI included in and excluded in calculating monthly service charges for programming; and

WHEREAS, TCI's December Form 393 set forth one figure for its hourly service charge, which it certified was correct, and which TCI attempted to support with its February 28 data response, but 10 days later, on March 10, TCI submitted a significantly different figure for its hourly service charge, certified that this new figure was correct, but never addressed or explained the difference between the two figures, and TCI has never responded, or responded meaningfully, to data requests as to the basis for the December charge, and

WHEREAS, TCI states it has figures specific to this system on the amount of time it takes for installations and the like, that these are not the same as the "corporate" figures it used in its filings, has not provided the system figures in either its March 10 response or in response to the data request, and in its March 10 response did not challenge the times given in the R. W. Beck report as unreasonable, imprudent, or otherwise incorrect, and

WHEREAS, TCI's rates for leasing remotes and converters in its March 10 response are significantly different from those in its December Form 393 and February 28 data response, and different again from those in its September 1 rates; TCI has said in succession that each such rate complies with the FCC Rules, and in the case of the former two rates, has said that such rates are supported by its data and records, but has not set addressed or explained the differences between the figures, and has failed to respond, or respond in a meaningful fashion, to City's data request on same, and

WHEREAS, TCI has said that rates should be based upon the specific characteristics of the TCI system under review, and the R.W. Beck report attempts to do this for remotes and converters by directly using TCI's estimated fair values for such items, whereas TCI instead uses allocations from unidentified accounting units, and

WHEREAS, City should complete the rate regulation process promptly, to comply with the 120 days as provided by the FCC Rules and the Ordinance, so that its residents may receive any refunds, reductions or other benefits at an early date; minimize the risk or impact of challenges by cable companies to those portions of the FCC Rules that allow for refunds prior to the date municipalities' order rate reductions; and minimize the risk or impact of any claims by TCI that it can raise rates for certain services, and

WHEREAS, TCI's actions cast doubt on the credibility of its filings and responses and allow City to conclude that TCI has failed to carry its burden of proving the reasonableness of its rates and conclude that TCI lacks the data to support the figures set forth in its filing and March 10 response, because, without limitation, of the inconsistencies and unexplained changes between TCI's various submissions; of TCI's use of unsupported data and information; and of TCI's demonstrating in its response on March 10 that much of the data requested in January is available and could have been provided on a timely basis, and

WHEREAS, the report of R.W. Beck utilized reasonable data and assumptions, based upon the knowledge and expertise of R.W. Beck, industry data, and other information, to recommend benchmark rates for Basic Cable Service and rates for Associated Equipment as set forth in Appendix A of the report, and the resulting rates are reasonable and consistent with the 1992 Cable Act and the FCC Rules, and

WHEREAS, due to its failure to file a proper Form 393, TCI has failed to elect to have its rates set on a benchmark basis, allowing the City to elect to set rates on a cost of service basis; but given TCI's failure to date to respond to requests for data it is unlikely that TCI would respond on a timely basis to requests for data allowing City to set rates on a cost of service basis, and

WHEREAS, because R.W. Beck has recommended reductions in TCI's rates computed on a benchmark basis, and TCI has admitted certain reductions are necessary,

it is desirable to promptly give City residents the benefit of such reductions, while reserving City's right to elect to set rates on a cost of service basis, including ordering refunds, and

WHEREAS, the City possesses all powers conferred by the 1992 Cable Act, the FCC Rules, TCI's franchise with City, the Ordinance and all other applicable law, and may take any action not prohibited by the 1992 Cable Act and FCC rules to protect the public interest in connection with the rate regulation of Basic Cable Service and Associated Equipment.

NOW, THEREFORE, BE IT RESOLVED that based on the foregoing, the City Commission hereby finds that the R.W. Beck report is based upon more credible information than TCI's purported Form 393 filing and March 10 response; that TCI is in violation of the City's Ordinance for failure to comply with the data request; that TCI has failed to carry its burden of proving the reasonableness of its rates in its purported Form 393 filing or as modified by its March 10 response; and that City adopts the R.W. Beck report, findings and recommendations as its own, as provided herein.

BE IT FURTHER RESOLVED that City's findings include, but are not limited to, (1) finding that the correct, credible and reasonable method of determining the number of satellite channels is the number of such channels received by a majority of subscribers on a system-wide basis and that this method is consistent with the FCC Rules; (2) finding that the R. W. Beck report, including its underlying facts, is correct in its determination as to the number of satellite channels, and the TCI Form 393 and March 10 response are not correct, in part because TCI appears to have attempted to evade the FCC Rules by not adding a local broadcast station it was required to carry, and consequently combining two satellite channels, until after the Form 393 was due; (3) finding that the times given in the R. W. Beck report for installations and the like are credible and correct, and those of TCI are not, and are not even the figures for this system; (4) finding that TCI's several hourly service charges are inconsistent, lack credibility or support, that TCI has failed to address or explain such charges or the differences between them, although having the capability to do so and finding that the hourly service charge in the R. W. Beck report is credible and correct based upon the information provided by TCI; (5) finding that TCI has failed to show that it properly unbundled costs associated with maintenance of in-home wiring, has completely failed to make that showing in its purported Form 393, has failed to meaningfully support a claim first made in its March 10 response, that such costs were nonetheless removed from monthly service charges for programming or taken into account in setting equipment rates, and has admitted that such costs are now included in monthly service charges for programming, and (6) finding that the assumptions, facts and conclusions of the R. W. Beck report as to the rates for leased remotes and converters are credible, correct, and reflect the characteristics of this cable system, and those of TCI do not.

BE IT FURTHER RESOLVED that the City Commission hereby approves the \$2.00 Upgrade/Downgrade (Addressable) charge belatedly submitted by TCI in its March 10 response as the approved rate for such change in order to give its residents the benefit of such lower rate, the FCC having suggested a nominal \$2.00 charge for such changes, and by inspection TCI's proposed charge appears to be consistent with such FCC suggested charge.

BE IT FURTHER RESOLVED that the City Commission hereby approves the rates recommended in Appendix A to the R.W. Beck report, plus the Upgrade/Downgrade (Addressable) charge, (which are exclusive of franchise fees as required by Form 393), orders that TCI shall not charge any rates which exceed the rates identified on Exhibit A attached hereto, adjusted for franchise fees, and orders that, except as set forth herein, TCI shall not charge any rates for Basic Cable Service or Associated Equipment other than those rates shown on Exhibit A, adjusted for franchise fees, without proper filing with the City and compliance with the Ordinance, the 1992 Cable Act, and FCC Rules.

BE IT FURTHER RESOLVED that, assuming such a charge is otherwise permissible, TCI has failed to carry its burden of proof to support an in-home wiring maintenance charge; TCI's claim that such charges are unregulated and may be imposed without City approval is inconsistent with the FCC's rate orders; and therefore, for the reasons set forth in the R.W. Beck report, TCI may not impose a charge of any kind, on an hourly rate basis, forty-nine cents (49¢) per customer per month, or any other basis, for

BE IT FURTHER RESOLVED that as to bulk rates for Basic Cable Service for multiple dwelling units (1) such rates must comply with the FCC Rules, (2) such rates may be offered by TCI only if such rates are nonpredatory and offered on a uniform basis to buildings of the same size with contracts of similar duration and cannot be negotiated individually with multiple dwelling units, or such other conditions as required by the FCC Rules, (3) the approved rate is \$3.10 per dwelling unit unless a different rate or rates is filed with the City in a public file, such rates to be effective unless disapproved by City, and (4) TCI's existing contracts with multiple dwelling units are grandfathered to the extent they comply with the preceding.

BE IT FURTHER RESOLVED that TCI may not after the date of adoption of this Resolution/Rate Order charge subscribers more for Basic Cable Service and Associated Equipment than the rates approved herein, subject to its obligation to charge uniform and non-discriminatory rates and subject to further adjustment or order by City.

BE IT FURTHER RESOLVED that the rates charged to subscribers shall include a franchise fee computed in accordance with the requirements of the Consent Agreement with City and nothing herein shall be construed as a waiver of City's contention that since September 1, 1993, TCI has been incorrectly computing and itemizing franchise fees on subscriber bills.

BE IT FURTHER RESOLVED that the Clerk shall publish a notice of this Resolution/Rate Order in a newspaper of general circulation within the City and that the Clerk shall mail a copy of this Resolution/Rate Order to TCI, pursuant to Section 12 of the Ordinance.

Upon vote for the adoption of said resolution, the vote was:

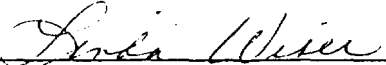
AYES: 7

NAYS: 0

5

The undersigned, being the duly qualified and acting Clerk of the City of Walker, Kent County, Michigan, does hereby certify that the foregoing is a true and complete copy of the resolution duly adopted by the City Commission of the City of Walker at the regular meeting of said City Commission held on the 22nd day of March, 1994 at which meeting a quorum was present and remained throughout, and that the resolution has not been amended or rescinded and that the original of the resolution is on file in the records of the City.

IN WITNESS WHEREOF, the official signature of the Clerk and the seal of the City of Walker are hereunto affixed this 22nd day of March, 1994.

  
Linda Wiser, City Clerk

(SEAL)

# EXHIBIT A

## APPROVED RATES

Line No.	Type of Service	Rate
1	Basic Cable Service	\$9.27
2	Basic Cable Service - MDU	\$3.10
3	Cable Programming Service #	\$10.82
4	Leased Remotes	\$0.15
5	Leased Converter Boxes - Standard	\$0.85
6	Leased Converter Boxes - Addressable	\$1.78
7	Installation of Unwired Homes	\$25.57
8	Installation of Prewired Homes	\$10.23
9	Installation of Additional Connection - Initial	\$3.68
10	Installation of Additional Connection - Separate	\$7.57
11	Move outlet	\$7.57
12	Upgrade/Downgrade (non-Addressable)	\$10.23
13	VCR Connect - Initial	\$5.11
14	VCR Connect - Separate	\$9.41
15	A/B Installation - Initial	\$3.68
16	A/B Installation - Separate	\$7.57
17	Inside Wiring Maintenance Program	\$0.00
18	Upgrade/Downgrade (Addressable)	\$2.00

# - Rate regulated by the FCC. Not a locally regulated rate.  
Rate shown is based on the same rate per channel as Basic Service.

Rates charged to subscribers shall be adjusted to include franchise fees.

RECEIVED

1993

**TCI TELE-COMMUNICATIONS, INC.**

CITY OF WALKER  
MANAGERS OFFICE

To the Franchising Authority:

TCI Cable Management Corporation (TCI), on behalf of your local TCI-affiliated cable operator, hereby submits its response to your notice seeking an explanation of our present basic tier and equipment rates.

TCI has attempted to comply with all applicable FCC requirements. To the extent the rates contained in this amended response are different from the current rates, such rates, if approved would represent a revenue neutral restructuring of current rates. As we all know there remains considerable uncertainty about various aspects of "benchmark" regulation. Accordingly, we hereby reserve the right to make future corrections to this filing. The operator also requests the right to make future adjustments in its rates, to the extent that any error was made in computing the benchmark rates. Such latitude is essential given the confusion surrounding the initiation of benchmark regulation.

We appreciate your patience and understanding as we strive to comply with all of the provisions of the 1992 Cable Act. If you have any questions or concerns about this filing, please bring them to the attention of your local TCI-Affiliated cable manager. He or she will do their best to answer your questions or get you the answer in a timely manner. Considering the complexity of the 1992 Cable Act we hope you will work with us as we work to fully comply with the law.

TCI Cable Management Corporation

By:   
Mary V. Green  
Director of Regulatory Compliance

FCC 393 - PART 1  
REQUEST FOR CABLE RATE APPROVAL  
COVER SHEET

Community Unit ID:  
MI0391

Date:  
12-01-93

Name of Cable Operator  
TCI CABLEVISION OF W. MICHIGAN

Mailing Address:  
P O BOX 200

City:  
GRAND RAPIDS

State: Zip:  
MI 495010200

Point of Contact for Form:  
STEPHAN, DONALD

Telephone:  
(616)247-0575

Fax:

Local Franchising Authority/Mailing Address:

CONTACT: JAMES M HATCH  
CITY OF WALKER  
4243 REMEMBRANCE RD

City: WALKER

State: MI Zip: 49504

This form is being filed with respect to:

☒ basic rate regulation      ☐ cable programming service rate regulation

FOR BASIC SERVICE TIER AND EQUIPMENT RATES:

Program Service Rate

(1) Number of channels on basic service tier:	18
(2) Current rate for basic service tier:	10.12
(3) Maximum permitted per channel rate:	0.539
(4) Maximum permitted rate for basic service tier:	9.70

TIME RUN 14:56:32 01 DEC 1993 HEADEND H1415A FRANCHISE F4502

## EQUIPMENT AND INSTALLATION RATES

	PERMITTED	ACTUAL
(1) Charges for basic service installations		
(a) Hourly Rate OR		
(b) Average installation charges		
(1) Installation of unwired homes	35.30	33.80
(2) Installation of prewired homes	17.65	16.90
(3) Installation of additional connect. initial	5.88	5.63
(4) Installation of additional connect. separate	17.65	16.90
(5) Other installations (specify) Move Outlet	17.65	16.90
(6) Other installations - Upgrade/Downgrade Opt	11.77	11.26
(7) Other installations - VCR Connect Initial	5.88	5.63
(8) Other installations - VCR Connect Separate	11.77	11.26
(9) Other installations - FM Connect Initial	5.88	5.63
(10) Other installations - FM Connect Separate	11.77	11.26
(11) Other installations - DMX Install Initial	5.88	5.63
(12) Other installations - DMX Install Separate	11.77	11.26
(13) Other installations - A/B Install Initial	4.00	3.74
(14) Other installations - A/B Install Separate	11.77	11.26
(2) Charge for changing tiers	2.00	2.00



## EQUIPMENT AND INSTALLATION RATES (cont'd)

	PERMITTED	ACTUAL
(3) Monthly charge for lease of remote controls		
Remote control type 1:	0.18	0.08
Remote control type 2:	0.00	
Remote control type 3:		
(4) Monthly charge for lease of converter boxes		
Converter box type 1:	1.05	0.52
Converter box type 2:	2.32	1.04
Converter box type 3:		
(5) Monthly charge for lease of other equipment		
Cable home wiring		
Other equipment (specify)		

## FOR CABLE PROGRAMMING SERVICE RATES AND EQUIPMENT

## PROGRAM SERVICE RATES

(1) Number of channels on programming service tier	21
(2) Current rate for cable programming service tier	11.80
(3) Maximum permitted per channel rate	0.539
(4) Max. permitted rate for programming service tier	11.32

EQUIPMENT AND INSTALLATION RATES  
(included in basic tier)

I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith

Name of Cable Operator:

TCI CABLEVISION OF W. MICHIGAN

Date:

12-01-93

Signature:



Title:

Director of Regulatory Compliance / Accounting  
TCI Cable Management Corporation

TIME RUN 14:56:32 01 DEC 1993